



Federal Update for July 2-15, 2016



DoD/VA Seamless Transition Update

Still Years Away

Military and Veterans Affairs officials are still years away from fully sharing patient health records, even after almost two decades of work and hundreds of millions of dollars in funding, according to a report from the Government Accountability Office released 13 JUL. But Defense Department officials said they're confident the two bureaucracies will reach that goal in the next two years, citing recent improvements to the system and planned advances in coming years. The conflicting views frustrated members of the Senate Appropriations Committee, who called the ongoing issue an embarrassment for the country and an unnecessary hardship for troops and veterans. Sen. Jon Tester, D-Mont., questioned whether lawmakers will be holding the same hearing with the same concerns in

In April, both Department of Veterans Affairs and Defense Department leaders certified that all medical data in their systems met national standards for sharing with public and private health care systems. Nine months earlier, the two bureaucracies announced a massive expansion of information being shared through their Joint Legacy Viewer tool, a major breakthrough in allowing physicians to compare different notes in their separate software systems.

But GAO officials said those advances still leave significant work ahead for full medical record sharing, noting that key documents like X-ray images and CT scans aren't easily transferred between agencies. "In addition, VA's unsuccessful efforts over many years to modernize its VistA system raise concern about how the department can continue to justify the development and operation of an electronic health record system that is separate from the Defense Department's," their report states.

That has been a lingering point of contention between lawmakers and department officials since 2013, when VA and military leaders announced plans to abandon a \$564 million project on joint medical records software due to its expense and lengthy production time frame. VA and Defense Department leaders defended the decision again at Wednesday's hearing, saying the separate systems can be made fully interoperable faster and for less money than the effort building a new system would take. Committee members said they're skeptical. The VA is scheduled to adopt new, modernized electronic health records software in the next two years. Laverne Council, VA's assistant secretary for information and technology, said she is confident both departments are on the right path, acknowledging the frustration of many veterans. "We know that a veteran's complete health history is critical to providing seamless, high-quality integrated care and benefits," she told committee members. "And interoperability is the foundation of this capability."

Earlier this year, the committee included language in its draft of the annual VA budget plan restricting the use of nearly \$260 million in technology modernization funds until the departments can show more progress on the issue. [Source: Military Times | Leo Shane | July 13, 2016 +]

Arlington National Cemetery Update

Future Eligibility Requirements

The VFW attended a discussion in July about the future of Arlington National Cemetery. Currently, only one percent of those eligible choose to be buried or inured at Arlington, with the rest being interred at the VA's 134 national cemeteries or in state veterans cemeteries or elsewhere. Even so, based on its current pace, Arlington will run out of space sometime between the years 2050 and 2070, a timeframe that takes into consideration the 90,000 current available spaces, the 27,000 additional spaces from its millennium project, and the 45,000 to 50,000 spaces to be gained from a southern

expansion into where the Navy Annex once stood. The question the Arlington advisory committee is pondering is whether changes could or should be made to eligibility requirements to extend the cemetery's lifespan. Right now, all active-duty deaths are eligible, as well as military retirees, those with qualifying medals, and those with honorable discharges. [Source: VFW Action Corps Weekly | July 8, 2016 ++]

Selective Service System Update

Amendment to Bar Female Draft

The Republican-led House backed a measure 7 JUL that seeks to bar women from being required to register for a potential military draft, a victory for social conservatives who fear that forcing females to sign up is another step toward the blurring of gender lines. By a vote of 217 to 203, lawmakers approved an amendment that would block the Selective Service System from using any money to alter draft registration requirements that currently apply only to men between the ages of 18 and 25.

The amendment, sponsored by Rep. Warren Davidson (R-OH) was added to a financial services spending bill. The House also approved an amendment by Rep. Paul Gosar (R-AZ) that would block any money in the bill from being used for sanctuary cities, a term for jurisdictions that resist turning over immigrants to federal authorities.

Davidson said much more study is necessary before such a significant, if largely symbolic, change to the draft is made. The U.S. has not had a military draft since 1973, in the waning years of the Vietnam War era, and the odds for another wide-scale draft are remote. Still, the draft registration requirement remains for men, and many lawmakers believe women should be included.

The House vote comes just a few weeks after the Senate passed an annual defense policy bill that mandates for the first time in history that young women sign up for a draft. That measure calls for women to sign up with the Selective Service within 30 days of turning 18, beginning in January 2018. The push in the Senate to lift the exclusion was triggered by the Pentagon's decision late last year to open all front-line combat jobs to women. After gender restrictions to military service were erased, the top uniformed officers in each of the military branches expressed support during congressional testimony for requiring women to register. At the same time, they said the all-volunteer force is working and they didn't want a return to conscription. Davidson said delaying the requirement gives lawmakers time "to talk with our families, talk with young women, and then take a more considered action."

The House didn't include a similar provision in its version of the annual defense policy bill. Instead there's a measure to study whether the Selective Service is even needed at a time when the armed forces get plenty of qualified volunteers, making the possibility of a draft remote. The House on 6 JUL rejected an amendment to put the Selective Service System out of business by denying the agency's \$23 million annual budget. Rep. Peter DeFazio (D-OR), who drafted the amendment, said the Selective Service is obsolete and archaic. But other lawmakers pushed back. Rep. Ander Crenshaw (R-FL) said the \$23 million is a "small price to pay for an agency that has the potential to avert a crisis should the draft ever need to be reinstated." [Source: Associated Press | Richard Lardner | July 7, 2016 ++]

TRICARE Fraud Suspicion Update

How to Report It

Fraud against TRICARE beneficiaries is in the news. Protecting your personal information is vital to your privacy, and prevents abuse of taxpayer funds. Be safe; don't share your military ID or other personal or family information with an unknown person. Fraudsters often target TRICARE beneficiaries, including active duty service members. Examples include fake surveys used to collect personal information or offering gift cards to get your information, then billing TRICARE for services you didn't need or never received.

If you think you are the victim of TRICARE related fraud, you can report it to the Defense Health Agency. Use their fraud and abuse report submission form at <http://www.health.mil/reportfraud>. You can also report cases where you think someone is trying to defraud TRICARE. For example, if your TRICARE explanation of benefits shows a bill for something

you didn't get, tell your TRICARE Regional Contractor. Their contact information is available at <http://www.tricare.mil/About/Regions>.

TRICARE usually doesn't contact you asking for personal information, such as your military ID number or Social Security number. Only provide that information to a trusted entity, like your doctor, a claims processor, or your TRICARE regional contractor. Be wary of an unknown person offering a gift or reward in exchange for providing a health service. They may be trying to get your information to commit fraud. For more information about fraud, visit www.health.mil/fraud. [Source: Health.mil | July 1, 2016 ++]

TRICARE Child Care

New or Adopted Children

If you have a new baby or have adopted a child, take the necessary steps to give your child access to health care when they need it.

- **Step one;** Register your child, newborn or adoptee, in the Defense Enrollment Eligibility Reporting System(DEERS).You don't have to wait the 2-6 months it may take for a formal state department birth certificate. When you are discharged from the hospital or birth center, you will receive a certificate of live birth or documents that validate the child's connection to their sponsor. If both parents are active duty, you must decide which parent will add the baby to their DEERS account. DEERS registration needs to be done in person, by an active duty service member.
- **Step two;** Enroll your child in Prime if you decide it is the best plan for your baby's health care needs. You can quickly enroll your child by calling your regional contractor or by submitting a Prime enrollment form. Newborns are covered under TRICARE Prime for 60 days after birth, as long as another family member is already enrolled in a Prime option. If you decide Prime is best for your family, you must take an additional step to enroll them, it is not automatic. After those first 60 days in Prime, the child's health coverage automatically transitions to TRICARE Standard.

Remember, Prime enrollees receive care mostly through military hospitals or clinics with no cost shares or deductibles. Standard beneficiaries receive care from their choice of provider with associated cost-shares and deductibles. If your family is growing with an adopted child, start the process as soon as you have the information to register them in DEERS. No matter which plan you chose, this is your first step. Be sure you have all required paperwork (refer to<http://www.tricare.mil/Plans/Eligibility/Children> to avoid unnecessary confusion or subsequent bills for co-payments and cost-shares. For more information, visit the Enroll or Purchase a Plan page on the TRICARE website at <http://www.tricare.mil/Plans/Enroll>. You can also find the nearest DEERS registration site online at <http://www.dmdc.osd.mil/rsl/appj/site>. [Source: Health.mil | July 1, 2016 ++]

DoD Overseas School Lunches

August Price Increase

Prices for school lunches at most Defense Department schools outside the continental U.S. will go up in August, at the start of the new school year. Elementary school students will pay an extra 10 cents for each full-price meal, for a cost of \$2.50 per meal. Secondary students will pay an extra 20 cents, for a cost of \$2.75 per meal, according to an announcement from the Army and Air Force Exchange Service, which provides the meals on a nonprofit, break-even basis on overseas Army and Air Force installations. Navy Exchange Service Command provides the lunches on Navy bases.

There will be no increase in cost of meals for families qualifying for the Free and Reduced Meal Program. According to federal guidelines, the cost of a reduced-price meal remains at 40 cents per meal. The price increase will not apply to Guam. As participants in the U.S. Department of Agriculture's meal program, the Healthy, Hunger-Free Kids Act requires DoDEA schools to raise paid student lunch prices to a level comparable to the rates for USDA reimbursement, which is expected to occur gradually over the next four years. "It's important for us to keep offering these nutritious meals and, in order to do so and to keep pace with the increasing food and operational costs, the school meal prices will increase for the first time in more than four years," said Air Force Chief Master Sgt. Sean Applegate, AAFES' senior enlisted adviser. The last price increase, 35 cents per meal, was in 2012. [Source: Military Times | Karen Jowers | July 1, 2016 ++]

Commissary Privatization Update

Shortages | A Grim Forecast

Some residents of the remote Army Garrison Kwajalein Atoll have complained about a recent severe shortage of fresh fruits and vegetables at their contractor-operated grocery store — the only option for buying food on the island. “This is severe, and we are in dire straits. Morale is at an all-time low, and people are desperate,” said Sharon Rice, an Army wife living on Kwajalein. Some people are even taking Space-A military flights to Honolulu to shop for produce and dairy items — about a five-hour flight each way.

That store, which the garrison commander describes as “our privatized commissary,” is residents’ only option for buying groceries — and some say their experience could foreshadow privatized remote commissaries of the future. Within two hours after the weekly produce delivery on June 21, the produce shelves were almost empty, Rice said.

The recent produce problem “is not a contracting problem or funding problem. It’s a supply chain problem,” said Scott Malcom, spokesman for the Army Installation Management Command, noting that perishables have to be refrigerated for thousands of miles. “We are very aware of these concerns,” Larsen said in an email.

The recent shortage issues are not new, Larsen said, adding that he’s researched town hall archive videos and has seen former commanders addressing shortage concerns back in 1986. “In many cases, our shortages are simply a result of being remote and isolated in the center of the Pacific Ocean and being 5,000 miles from the mainland of the United States. To address the problem, Larsen said, “we have multiple ways of communicating with the contractor who manages the privatized commissary. We are using all of these tools to make sure that they continue to operate within the prescribed scope of work. The contractor is a competent and professional organization and has been successfully performing this task since 2003.” An official with the contractor, Kwajalein Range Services, referred questions to Army officials on Kwajalein. Army Installation Management Command officials said they are in the process of separating the Kwajalein logistics support contract into three separate contracts for fiscal 2018 — with a separate contract for base support, which includes the grocery store. By separating the functions, companies will be able to concentrate on a core competency, which may improve this situation, one official said.

Over the past year, talk about turning over commissaries to the private sector to operate has gained momentum, including two efforts in the Senate Armed Services Committee to require the Defense Department to test commissary privatization. Those attempts were defeated last year and this year. Among other concerns is whether private companies would be willing to operate commissaries in remote areas. DoD is still required to study the possibility of privatization, and officials have put out a request for information from companies and others who might have an interest in — and the ability to — privatize all or part of the commissary system, possibly saving some of the \$1.4 billion required to operate the stores each year. “This is a forecast of things that could happen elsewhere,” said Joyce Raezer, executive director of the National Military Family Association. [Source: Navy Times | Karen Jowers | July 6, 2016 ++]

VA Praised

Something Positive for a Change

Veterans came to U.S. Rep. Dave Loebsack to praise, not pan, the federal Veterans Administration health care system in a meeting with the congressman 28 JUN. “I just want to say something positive about the VA,” Cathy Mrazek of Coralville, who was an Army military policewoman for 12 years. “There’s not enough credit give to the VA for everything they do for veterans,” she said at the Iowa City Democrat’s fifth annual “Serving Those Who Served” town hall meeting at a veterans’ memorial outside the Johnson County Administration Building. “If they don’t have an answer, they try to find one.”

It’s been a rough couple of years for the Department of Veterans Affairs with allegations that officials falsified records to hide the length of time veterans waited for medical service and, in some cases veterans died while waiting for care. But that’s not what the 50 veterans who met with Loebsack wanted to talk about. They praised the care they had received in dealing with substance abuse and mental health issues. Loebsack criticized of the slow response to allegations in 2014 that the VA falsified records at a Phoenix medical center to hide the length of time veterans had to wait for appointments.

That triggered similar reports from VA centers around the country. “There has not been enough people held accountable,” Loeb sack said. “Not enough people have been fired.”

Loeb sack, a member of the House Armed Services Committee, is doing a series of meetings around the Fourth of July with veterans to hear their concerns and to thank them for their service. “There aren’t many issues that folks on all sides can come together on,” he told the veterans. “If it weren’t folks that were willing to make the ultimate sacrifice we wouldn’t be celebrating the Fourth.” [Source: The Hill | Rebecca Kheel | June 27, 2016 ++]

VA Benefits Eligibility Update

Bad Paper Discharges

More than 125,000 veterans who have served since 9/11 are denied access to basic services like health care by the Department of Veterans Affairs, according to a report by the [Veterans Legal Clinic](#) at the [Legal Services Center](#) of Harvard Law School. The report, “[Underserved](#),” presents new findings about how the VA’s regulations exclude hundreds of thousands of veterans with “bad-paper” discharges, contrary to the text and intent of the 1944 G.I. Bill of Rights, which established the current VA eligibility standard. The clinic issued the report on behalf of two veterans advocacy organizations, Swords to Plowshares and the National Veterans Legal Services Program (NVLSP). “Congress meant for the VA to provide basic services to nearly all the men and women who served in uniform,” said [Dana Montalto](#), an attorney and Liman Fellow in the Veterans Legal Clinic. “Yet, the VA’s regulations have operated to exclude more and more veterans from getting the care and support that they deserve.”

The Clinic found that 6.5 percent of veterans who have served since 9/11 are excluded from the VA — twice the rate for Vietnam era veterans and nearly four times the rate for World War II era veterans. Many of those veterans have mental or physical injuries because of their service, and many served in combat or other hardship conditions, but nevertheless cannot get health care, disability compensation, or other supportive services because of the VA’s regulations.

“Since the Veterans Legal Clinic opened our doors in 2012, we have heard from scores of veterans who wrongfully or unjustly received less-than-honorable discharges,” said Clinical Professor [Dan Nagin](#), who directs the Veterans Legal Clinic. “There exists a dearth of legal resources for these veterans, and our students have represented many in correcting their discharges and gaining access to the basic services that they deserve.” Students in the clinic have represented an Iraq War veteran who was less-than-honorably discharged for one-time drug use on the night that he attempted to commit suicide, a post-9/11 veteran who was wrongfully discharged on the basis of an incorrect diagnosis of personality disorder, and a veteran discharged for his sexual orientation under the now-repealed Don’t Ask, Don’t Tell policy.

The clinic has been able to continue to expand its work in this area since the arrival of fellow Dana Montalto in 2014. In addition to providing representation to more veterans, she has established the Veterans Justice Pro Bono Partnership, which trains and supports private attorneys to represent veterans in discharge-upgrade petitions. Montalto has also spearheaded systemic reform initiatives, including writing the report “Underserved”. Other key findings of the report were:

- 3 out of 4 veterans with bad-paper discharge who served in combat and have post-traumatic stress disorder are denied recognition as “veterans” by the Board of Veterans’ Appeals.
- There are wide disparities in eligibility rates among the VA Regional Offices and among Veterans Law Judges at the Board of Veterans’ Appeals.
- Marine Corps veterans are nearly 10 times more likely to be excluded from the VA as Air Force veterans.

Based on these findings, the Veterans Legal Clinic filed a [Petition for Rulemaking](#) on behalf of Swords to Plowshares and NVLSP, with Latham & Watkins LLP. The petition asks the VA to adopt new regulations that accord with Congress’s law and sound policy. The proposed regulations would comply with the statutory standard by denying benefits only to those veterans who received or should have received a dishonorable discharge, and by taking into consideration whether positive or mitigating factors, such as combat service, hardship, or mental health conditions, outweigh any misconduct. The petition further asks the VA to cease requiring pre-eligibility reviews for most veterans who were administratively discharged so that veterans in need can quickly obtain health care and supportive services.

In response to the clinic's report, Deputy Secretary of Veterans Affairs Sloan Gibson told the New York Times, "Where we can better advocate for and serve veterans within the law and regulation, we will look to do so as much as possible." He added, "I believe the report provides us, as a department, an opportunity to do a thorough review, take a fresh look this issue and make changes to help veterans." The VA recently informed the petitioners that it will initiate rulemaking proceedings to update and clarify its regulations. "We appreciate the VA's positive response to the petition," said Montalto. "We look forward to continuing to work with the VA in the coming months to develop regulations that better serve our veterans."

According to Nagin, "This report grows out of our individual representation and has the potential to impact hundreds of thousands veterans across the country. The VA's adoption of the Petition for Rulemaking's proposed regulations would help to ensure that no veterans are denied the care and support that our nation owes them." [Source: Harvard Law Today | July 12, 2016 ++]

Traumatic Brain Injury Update

24,000 Vets Improperly Examined

Veterans Affairs officials aren't saying how 24,000 veterans were diagnosed with traumatic brain injury by VA physicians considered unqualified to make such a determination, but on Wednesday, told Congress the department is working to resolve related disability claims problems. Some veterans diagnosed with TBI from 2007 to 2015 were denied disability benefits because they were examined by a VA health provider considered to be unqualified under VA policy. After a media investigation by KARE 11 in Minneapolis found that as many as 300 veterans at the Minneapolis VA Medical Center were denied benefits as a result, the department announced it would review all cases involving veterans with improper exams.

In June, VA announced it would send letters to more than 24,000 affected veterans offering new exams. Dave McLenachen, deputy undersecretary for disability assistance at the Veterans Benefits Administration, told a House Veterans' Affairs panel Wednesday he was unable to "find a reason" why the exams were conducted in violation of VA policy at a number of VA facilities. "I don't know if it was a lack of capacity, whether that was an issue at the particular time, or to the extent whether there were enough of those specific specialists available at the time. I don't know the answer to that question," McLenachen said. The KARE 11 investigation found that at the Minneapolis VA only one of the 21 medical professionals who conducted initial TBI exams was a qualified specialist, defined as a physiatrist, psychiatrist, neurosurgeon or neurologist.

Rep. Dina Titus (D-NV) questioned whether sending a letter to an affected veteran was a sufficient response and she urged VA officials to conduct more outreach "Don't we need a public information campaign or work with the veterans service organization to ensure this is adequate?" Titus asked. McLenachen said VA officials decided to send letters rather than simply reschedule exams because some veterans may have received a higher disability rating for TBI from their initial exam than they would have gotten from a specialist. According to McLenachen, more than 14,000 affected veterans already are receiving disability compensation for service-connected TBI, "many at higher rates of evaluation." "It could be misleading to go out and tell them we are going to schedule an exam without their choice, might have a significant impact on their benefits," he said.

Minneapolis VA Medical Center is under fire for allegedly using unqualified medical professionals to perform brain injury exams. Hundreds of Minnesota veterans may have been denied benefits they earned. More than 327,000 troops were diagnosed with a brain injury from 2000 to 2015. Roughly 80 percent of those diagnoses were for mild TBI, or concussion. Roughly 170,000 veterans with TBI have filed disability compensation claims and 75,000 have been approved. Lawmakers said 13 JUL they are concerned over the disparities, which can't entirely be explained by the VA's failure to use specialists to diagnose veterans. "Committee staff has been trying to get to the bottom of what happened and who is responsible, but even after four separate briefings, the answers are not clear," chairman Rep. Ralph Abraham, R-La., said. "The only issue that is clear to me is that the Veterans Benefits Administration and Veterans Health Administration created a royal mess by not communicating with each other ... and that senior VA employees once again failed to hold subordinates accountable." [Source: Military Times | Patricia Kime | July 14, 2016 ++]

VA Claims Backlog Update

Predicted Zero | Actual 70,000

More than 70,000 veterans disability claims are currently backlogged in Veterans Affairs processing centers, seven months after department officials missed their public goal of getting the number down to zero. VA Acting Under Secretary for Benefits Thomas Murphy said that figure includes a substantial number of claims left open longer than four months intentionally to ensure veterans are receiving all of the payouts they deserve. But he acknowledged his agency needs to drive that number down further. "This is still a continuous improvement process for us," he said. "We are not satisfied with the number now, and we won't be satisfied until we are much closer to zero."

Roughly one in five benefits claims submitted to the Veterans Benefits Administration ends up taking longer than four months to process, the department's long-held promise for processing the cases. That does not include appeals cases, which follow a different process and often take years to resolve. That ratio and the total number of backlogged cases have remained steady since last fall, when department officials announced they would not reach the goal of zeroing out the backlog by the end of 2015. The goal of eliminating the backlog was announced by President Barack Obama and VA leaders in 2009, part of an ambitious push for service improvements. As recently as three years ago, the backlog total topped 610,000 cases, causing an outcry from veterans and lawmakers frustrated with waits in some instances topping a year.

New electronic records systems and mandatory overtime for claims processors drew down the backlog by almost 90 percent over two years, but pulling it down even further has proven difficult. Murphy said three years of mandatory overtime for processors ended in December, although voluntary overtime hours are still being used to keep daily workloads at between 4,500 and 5,200 cases a day. The department also recently launched a new national work queue which allows employees across the country to help regional offices seeing spikes in filings, electronically moving that extra work across state lines to more quickly process the case load. But department officials expect another record-breaking year for case filings in fiscal 2016, adding to the workload despite the processing improvements. "That's the new norm for us," Murphy said. "We're dealing with a volume and complexity of cases that's growing every year."

In the late 1990s, most veterans applying for claims received a disability rating around 30 percent. Today that number is close to 50 percent, reflecting the expanding list of illnesses and injuries eligible for compensation. The number of veterans receiving some form of disability compensation from VA rose from 2.3 million in 2001 to around 4.2 million last year. At least part of the remaining backlog is attributable to cases where veterans update their claim late in the process with new medical information or conditions, requiring extra processing time. Murphy could not give a specific breakdown, but said he believes a substantial amount of the roughly 70,000 remaining cases fall into that category of veterans who need more than 125 days to have their cases properly handled. Still, he said, "our challenge is to identify why some other [cases] do not finish in 125 days, and how do we address that." [Source: Military Times | Leo Shane | July 10, 2016 ++]

VA Vet Choice Program Update

CoC Report Released

On 6 JUL, Secretary of Veterans Affairs Robert A. McDonald released the following statement on the Commission on Care final report. The report is available at https://commissiononcare.sites.usa.gov/files/2016/07/Commission-on-Care_Final-Report_063016_FOR-WEB.pdf :

"On behalf of the Nation's 22 million Veterans and the Department of Veterans Affairs, I thank the members of the Commission on Care for their hard work over the past year. The Commission has produced a wide-ranging set of recommendations on reforming the Veterans Health Administration, and VA looks forward to reviewing and considering these recommendations as we ensure that we remain true to our mission to serve and honor the men and women who are America's Veterans."

"While we will examine the report closely over the coming weeks and respond in a more detailed fashion, I am pleased to see that many of their recommendations are in line with our MyVA efforts to transform the VA into a Veteran-centric organization. Necessary transformational progress has been under way for the past two years, increasing access to health care and improving the Veteran experience of VA. This past March, VA set a new record for completed appointments: 5.3 million inside VA, 730,000 more than in March 2014. We also issued twice as many authorizations for care in the community than in March 2014. Clinical workload is up 11 percent in the past two years. Nearly 97 percent of appointments are now completed within 30 days of the Veteran's preferred date; 22 percent are same-day appointments; average wait times are five days for primary care, six days for specialty care, and two days for mental health care. Nearly 90 percent of Veterans surveyed say they are "satisfied or completely satisfied" with the timeliness of their appointments.

"However, until all Veterans say they are satisfied, I won't be satisfied. Nobody at VA will be satisfied. But our progress so far proves that VA's current leadership, direction, and momentum can produce the necessary transformation, as VA has already demonstrated in reducing the backlog of disability compensation claims by 90 percent since 2013.

"We know we can't complete the job without help from our partners. For that reason, I look forward to continuing to work with Congress, Veteran advocates, and Veterans themselves to identify further ways to improve VA.

"There are some things that can be done right now to help us continue our progress. Congress must act on our proposals to consolidate our Community Care programs, modernize and reform the claims appeals process, and pass the bi-partisan Veterans First Act. The window of opportunity is closing fast, but if Congress acts before leaving town this month, 2016 will be the year the nation turned the corner for Veterans.

"In the meantime, as we review the recommendations of the Commission, we will continue to look for other ways to build on the progress we've made to date and ensure we are doing everything possible to faithfully serve those who have served this country." [Source: VA News Release | July 6, 2016 ++]

VA Vet Choice Program Update

CoC Conclusions/Recommendations

The commission tasked by Congress with trying to fix the troubled Veterans Health Administration has just concluded a damning report, finding that "many profound deficiencies" at the troubled agency "require urgent reform." The commissioners conclude, "America's veterans deserve a better organized, high-performing health care system." The report indicates the billions pumped into the VA since the wait-list scandal erupted two years ago have failed to relieve many of the problems in delivering health care to veterans. In some cases, the report points out where so-called improvements to the VA system may have actually made things worse. To read the report refer to http://i2.cdn.turner.com/cnn/2016/images/07/05/commission-on-care_final-report_063016_1815-3-1.pdf

The 15-member Commission on Care, made up of mostly health care professionals and veterans' organization leaders, outlined a strategy for transforming the agency in a final report submitted to President Barack Obama. The commission was established by Congress after a CNN investigation and watchdog reports revealed VA staffers manipulated data to hide systemic health care delays. The report highlights a variety of "deficiencies" that contribute to health care issues within the agency, including flawed governance, insufficient staffing, inadequate facilities, antiquated IT systems and inefficient use of employees. The commission also criticized changes that have been implemented since the scandal became known, including the VA's Choice Program. The system was set up in 2014 to alleviate wait times by enabling veterans experiencing month-long delays or more to seek private care. The report states the program has only "aggravated wait times and frustrated veterans" due to confusing eligibility requirements and conflicting processes for coordinating with private health care providers. As a solution:

- The commission recommends establishing a "**VHA Care System**," which would function as a network of VA, Department of Defense and VA-approved private healthcare providers available to all enrolled veterans. Currently, a veteran must wait more than 30 days or live more than 40 miles from a VA facility in order to obtain private care through the VA. That requirement would be scrapped under the Commission's proposal; instead, veterans could choose from all primary-care providers in the system. Veterans could also choose from specialty-care providers in the system but would need a referral from their primary doctor. The commission is also

recommending that this system be overseen by a new board of directors responsible for implementing the changes and setting a long-term strategy for streamlining VA care.

- The report cites need for improved leadership due to what it describes as an overall lack of "strategic direction" within the department. "VHA must institute a far-reaching transformation of both its care delivery system and the management processes supporting it," the commission concluded. Despite calls for sweeping transformation, the report states VHA health care is "comparable or better in clinical quality" to care in the private sector, though inconsistent from facility to facility.

The report has received mixed reactions from members of Congress, veterans' service organizations and some of the commissioners themselves.

- Commissioners Stewart Hickey, formerly of AMVETS, and Darin Selnick of Concerned Veterans for America wrote a letter of dissent, arguing that the report's recommendations do not go far enough to fundamentally transform the agency. "The central problem is that these recommendations focus primarily on fixing the existing VHA provider operations, rather than boldly transforming the overall veterans' health care system," the letter states, arguing that veterans should be given even more private options than the report recommends.
- Rep. Jeff Miller (R-FL), the chairman of the House Committee on Veterans' Affairs, agrees that the VA needs significant restructuring but he has not yet endorsed the commission's specific proposals and said he needs time to review the report. "While the Commission on Care's nearly 300-page report will take time to completely review and digest, the document makes it abundantly clear that the problems plaguing Department of Veterans Affairs medical care are severe. Fixing them will require dramatic changes in how VA does business," Miller said in a statement.
- The American Legion cautioned against some of the commission's recommendations on increased access to private care through the VA. "These 'choices' also come with additional expenses to the veteran. Converting VA health care to an insurance payer will increase out-of-pocket expenses for veterans who rely solely on VA for all of their health care needs," the organization said in a statement.
- VA Secretary Bob McDonald said the commission's recommendations overlap with some of the strategies the VA has already begun implementing to improve health care. Without directly addressing many of the deficiencies described in the report, McDonald said veteran's access to appointments had improved in the past two years. "As we review the recommendations of the Commission, we will continue to look for other ways to build on the progress we've made to date and ensure we are doing everything possible to faithfully serve those who have served this country," McDonald said in a statement. [Source: CNN | Curt Devine & Drew Griffin | July 6, 2016 ++]

VA Vet Choice Program Update

CVA Unhappy with CoC Report

A veterans group is criticizing as inadequate the work of a congressional commission that concluded the Veterans Affairs Department still has "profound deficiencies" in delivering health care. The Concerned Veterans for America (CVA), an Arlington, Virginia-based organization that advocates for greater choice in veteran health care providers, described the panel -- of which it was a part -- as "broken," in part for failing to vote on its own recommendations. "Basically we ... have a broken commission, and because of a broken commission we have a broken report," said Darin Selnick, senior veterans affairs adviser for organization, which hosted a teleconference on 6 JUL after the release of the panel's report.

Selnick, who served on the commission, participated in the teleconference with Stewart Hickey, a fellow commissioner and former executive director for AMVETS, and Dan Caldwell, vice president for political action at the Concerned Veterans for America. The report includes some recommendations that Selnick and Hickey said they could support, such as creating a board of directors to oversee the Veterans Health Administration, eliminating the 30-day and 40-mile restrictions on using the Choice Act for non-VA care, and adopting a BRAC-like system to shut down unneeded VA facilities. But they panned the overall package as continuing the status quo. They also criticized the commission for not putting each recommendation to a vote -- something that the chairmen of the House and Senate Veterans Affairs committees had wanted -- and for not publishing on the commission's website a letter dissenting from the recommendations.

Selnick specifically accused Nancy Schlichting, the panel's chairwoman, of preventing substantive changes, and commission member Phillip Longman, senior editor of *The Washington Monthly*, of using his magazine to smear members

such as himself for pressing for reforms to give veterans greater private-sector choices." [Schlichting] had her own agenda. She felt that veterans were broken, were old, felt veterans couldn't take care of themselves, so the VHA had to be the one to take care of it," he said, referring to the Veterans Health Administration. "She focused and derailed any efforts that went against her perceived support of the status quo and fixing of the existing choice program."

Caldwell, CVA's political action head, slammed "left-wing news outlets and the Washington-based leadership of certain veterans' organizations" for making false claims that some commission members would profit from reforms that would increase private health care options for veterans. He singled out Longman for a Washington Monthly report that the libertarian billionaires David and Charles Koch were funding his organization and using it to push for privatization of VA health care. The group's ties to the Koch brothers have long been known and reported on. Military.com was unable to reach Longman for comment, though Schlichting rejected the idea that she or anyone else on the commission steered its recommendations. "I can't even understand how anyone can come to that conclusion. We had 12 commissioners," she told Military.com. "It was a consensus to create those recommendations. 'It's a very comprehensive,'" she said of the review. "It's everyone's work. I chaired the commission but I had no more vote than anyone else."

Hickey is a retired Marine Corps officer, former chief executive officer for Hyndman Area Health Center in Pennsylvania and former national head of AMVETS. He blamed organized labor and veterans service organizations -- in particular the Disabled American Veterans -- for influencing the commission in a way that harmed veterans. "I just felt that during this whole period, we spent more time listening to the government employee union, [and] veterans service organizations, who represent five or six million veterans out of 22 or 23 million veterans ... and they had undue influence over the results that were achieved," he said. Hickey said he would like to have seen the commission recommend VA health care administered by a non-profit government corporation and run like Amtrak or the U.S. Postal Service, "where we're not getting politics into the mix." But once again lobbyists -- which for veterans are the VSOs in DC, worked with some of the commission members and tried to thwart the efforts of those who wanted to see really VA reform," he added.

Two of the leading veteran service organizations -- the Veterans of Foreign Wars and the Disabled American Veterans -- were by and large supportive of the recommendations. But they also had concerns about some of them. Both organizations said they had reservations about a board of directors overseeing Veterans Health Administration. The Disabled American Veterans said the board would be less answerable to the president than a VA secretary, who is a political appointee and cabinet officer. Garry Augustine, DAV's executive director, dismissed Hickey's talk of VSO influence as sour grapes. "As far as our influence on the commission, it's nice to give us the credit but they're just frustrated they didn't get what they wanted," he said.

Concerned Veterans of America has been viewed skeptically by some of the longtime veterans' organizations for some time, though any ill feelings that veterans service organizations had for the Koch-linked group were kept below the surface until recently. Last month, the American Legion -- without identifying Concerned Veterans for America by name -- called it a "mouthpiece" for special interests looking to privatize VA health care. [Source: Military.com | Bryant Jordan | July 06, 2016 ++]

VA VISTA Update

GAO Asked to Examine Efforts to Modernize

The Government Accountability Office has been asked to examine VA's efforts to modernize VistA, its electronic health records (EHR) system. The bipartisan request to the GAO came in a letter from two leaders of the House Committee on Oversight Reform's Subcommittee on Information Technology: Chairman Rep. William Hurd (R-TX) and the subcommittee's ranking minority member Rep. Robin Kelly (D-IL). The legislators requested information about both VA's current plans to modernize VistA and the "history of VA's efforts to modernize VistA."

The request was made, "given the significance of VA's electronic health record information system to the performance of its health care mission, and in light of VA's repeated attempts to modernize VistA," according to the document. "Over the past 15 years, VA has taken various initiatives to modernize or replace VistA, starting in 2001 with a program referred to as HealthVet. This initiative was followed by a 2011 joint effort with DoD to develop the interoperable electronic health record (iEHR) followed by a 2013 effort with VistA Evolution," the letter recounted.

The efforts, however, “have not produced the kind of modern systems and capabilities that Congress mandated,” the subcommittee leaders wrote. The letter also noted that “VA has recently indicated that it may be pursuing yet another modernization initiative.”

The request for the GAO study comes after VA officials testified earlier this year that the agency is considering moving to a new, state-of-the-art EHR system that would better meet its needs. LaVerne Council, the agency’s assistant secretary for Information and Technology and chief information officer, told lawmakers at a hearing this spring that VHA Under Secretary for Health David Shulkin, MD, is evaluating a recommendation she has made for “the state-of-the-art, world-class system.” VA would complete the next iteration of the VistA Evolution Program during fiscal year FY 2018, which he said would bring improvements in efficiency and interoperability, Shulkin told lawmakers at the time. He also said that the VA wanted “to be certain that continuous modernization of a 40-year-old electronic record is an appropriate decision.” “Is this 40-year EHR going to be the system that VA should stick with for the next 20 years?” Shulkin said of VistA.

When it comes to its EHR, DoD announced earlier this year that a new system, MHS GENESIS, will begin rollout in the Pacific Northwest at the end of 2016 and will be completed over a several-year period. That timeline has been called into question, however, by a DoD Office of Inspector General audit dated 31 MAY that was partially released to the public. It noted that DoD Healthcare Management System Modernization (DHMSM) program execution schedule “may not be realistic for meeting the required initial operational capability date of December 2016.” “It is still at risk for obtaining an EHR system by the December 2016 initial operational capability date because of the risks and potential delays involved in developing and testing the interfaces needed to interact with legacy systems, ensuring the system is secure against cyber-attacks, and ensuring the fielded system works correctly and that users are properly trained,” the audit stated.

OIG recommended the Program Executive Officer for Defense Healthcare Management Systems “perform a schedule analysis to determine whether the December 2016 initial operational capability deadline is achievable,” although it added that the official “neither agreed nor disagreed with the recommendation to perform a schedule analysis to determine whether the December 2016 initial operational capability deadline was achievable.” The program office “is confident that it will achieve initial operational capability later this year in accordance with the National Defense Authorization Act,” according to the audit.

Meanwhile, lawmakers have expressed frustration in recent months by what they believe has been slow progress to create interoperability between the VA and DoD’s EHRs. Another congressional hearing was scheduled this month by a Senate Appropriations Committee Subcommittee to review VistA and progress toward interoperability with DoD’s electronic health record. Lawmakers also have expressed their concern through recent legislation. Although DoD and VA did finally certify that it had met key interoperability requirements set forth in the 2014 National Defense Authorization Act, lawmakers still passed a bill in May that restricted the use of \$260 million for the modernization of the VA’s EHR system until VA certified interoperability of the system with DoD. The Senate also was considering a similar provision. “It is high time that the VA and Department of Defense have an entirely interoperable electronic record system, and it’s this committee’s goal to see that through to fruition, so help us God,” House Committee on Appropriations Chairman Rep. Hal Rogers (R-KY) said during the bill’s markup. [Source: U.S. Medicine | Sandra Basu | July 2016 ++]

VA Health Care Access Update

New Form Removes Barriers

World-class health care is not much good to those who can’t access it and accessing VA health care has not always been easy. Actually, it’s been very frustrating for a large number of Veterans over the years, but enrollment is about to get easier for Veterans seeking eligibility. “In order to improve access to care, we reviewed many of the steps Veterans must take to receive that care and found that improvements needed to be made in the initial application to improve the Veteran experience and remove barriers that hinder access,” said VA Deputy Secretary Sloan D. Gibson. “I am happy to announce that VA will soon be launching the new online health care application on vets.gov.”

As of June 30, 2016, Veterans applying for health care will be directed to health care application on vets.gov. Unlike the online 10-10EZ and previous applications, this form does not require special software to open, nor does it need to be printed by the Veteran or VA staff to be processed. “Veterans could previously apply for health care online, but the user

experience was often frustrating, and the process required VA employees to generate paper applications that were manually entered into our eligibility verification and enrollment processing systems,” Gibson said. “The application is a HTML form on vets.gov that requires nothing more than an internet connection and 15-45 minutes of your time depending on the complexity of the application. The application can also be submitted without a login. We believe it is important to make this process as easy as possible. A log-in option will be added later this year, allowing Veterans to save their application and to update their information, but it won’t be required to apply for health care.” If at least one of the following applies to you, you probably qualify for VA health care:

- You receive financial compensation (pay) from the VA for a service-connected disability.
- You were discharged for a disability that happened or was made worse in the line of duty.
- You are a recently discharged Combat Veteran.
- You receive a VA pension.
- You are a former Prisoner of War.
- You have received a Purple Heart.
- You receive (or are eligible for) Medicaid benefits.
- You served in Vietnam between January 9, 1962 and May 7, 1975.
- You served in SW Asia during the Gulf War between August 2, 1990 and November 11, 1998.
- You served at least 30 days at Camp Lejeune between August 1, 1953 and December 31, 1987.
- If none of the above apply to you, you may still qualify for care based on your income. You can learn more about how the amount of money your family makes (income threshold) can affect your eligibility for VA benefits at <http://nationalincomelimits.vaftl.us> . Your most recent tax return will have most of information you need to qualify based on your income.

The new application is for Veterans who have not previously applied for VA health care. The 10-10EZ (paper form) will still be in the forms database, so Veterans and third parties serving Veterans can access the form to print it out. However, the expectation is that anyone seeking to apply for care eligibility online will use the online application, or call the number listed on vets.gov. “Providing health care to our nation’s Veterans is one of the most vital services we provide at the Department of Veterans Affairs,” said Gibson. “Through the MyVA transformation, we are working to rebuild trust with Veterans and the American people, improve service delivery and set the course for long-term VA excellence and reform, all while continuing to deliver better access to high-quality care.”

The new health care application form is available at <https://www.vets.gov/healthcare/apply> and, is a starting point for any Veteran interested in applying for health care eligibility. For additional information, please visit the Health Benefits Application website <http://www.va.gov/HEALTHBENEFITS/apply/index.asp>. [Source: VAntage Point Blog | June 30, 2016 ++]

VA Cemetery Memorials Update

Walks, Sections, and Walls

Function. The function of a Memorial Walk is to provide a path for visitor access to a Memorial Section where veterans organizations and other groups may place memorial plaques mounted on stones or monuments to commemorate certain groups, units, campaigns or other military events on walls designated for that purpose. A donations area for these donated memorial monuments may be located here and may be the location of the secondary flagpole for display of the POW/MIA flag.

The donated memorials are typically 18 inches deep x 24 inches wide x 24 inches high, with granite bases or natural boulders, and are placed in small cleared areas adjacent to a path. The Memorial Walk or donations area (Memorial Section) must appear complete as a feature in its own right, even without any donated memorials. As with all cemetery features, the Memorial Walk/Donations Area must be relatively flat or with a gentle slope and accessible to disabled persons without using sidewalks and ramps for wheelchairs.

Components. A Memorial Section for headstones memorializing those whose remains are unavailable for burial may be located in areas of a cemetery not suitable for casketed interments, because of soils, terrain or landscape features. The

size and layout of the Memorial Section will depend on the site layout, size of the individual memorial site, and the demand at a particular cemetery for memorial sites. A memorial site is 3 feet x 3 feet marked with a flat or upright marker of granite or bronze, except that bronze memorial plaques may be mounted on walls designated for that purpose, in lieu of placement of a marker in a memorial section. The walls may be portions of other features such as retaining walls, terraces, etc., which are appropriate for memorial purposes.

Design Requirements. A Memorial Walk shall have appropriate locations designated along the path for donated memorials, plaques, and benches. It consists of an asphalt path leading to a Memorial Section or donations area. If designed as a woodland path it will minimize the visual impact of the paved surfaces. The site turf should be maintained, cut and trimmed along the Memorial Walk. Landscape features may be grouped nearby depending on the project. The walk costs approximately \$20 per linear foot. [Source: http://www.cem.va.gov/cem/grants/memorial_walk.asp | June 30, 2016++]

VA Medical Marijuana Update

Dropped from VA Funding Bill

A provision that would have made it legal for Veterans Affairs doctors to discuss medical marijuana with their patients in some states disappeared mysteriously from the final VA funding bill in mid-JUNE, just before the House approved the legislation by a 239-171 vote. But the measure is not completely dead, as a failure by the Senate on 28 JUN to forward the Military Construction and Veterans Affairs funding bill for a vote provides an opportunity for the marijuana provision to be put back in. The failure in the Senate to pass a procedural vote over a dispute involving funding to fight the Zika virus means the bill can be reconsidered after the Independence Day break.

Supporters of the medical marijuana provision hope they can get the measure, which would have allowed VA doctors to recommend medical marijuana in states where it is legal, returned to and passed in the final bill. Eleven legislators, including 10 Democrats and one Republican, on 28 JUN wrote a letter to House and Senate leaders urging them to reinstate the provision. Lawmakers said the medical marijuana provision had “broad bipartisan support” and “should have been nonnegotiable.” “We feel the failure of the conferees to include either [the House or Senate] provision is a drastic misfortune for veterans and contrary to the will of both chambers,” wrote Sen. Steve Daines (R-MT), Sen. Jeff Merkley (D-OR) and others.

Last month (MAY), a medical marijuana amendment offered by Rep. Earl Blumenauer (D-OR) passed the House in a 233-189 vote and was voted on a second time as part of the larger Military Construction and Veterans Affairs bill, passed by a 295-129 vote. The Senate also included a similar medical marijuana measure in its version of the VA funding bill, which was approved in an 89-8 vote. But on 23 JUN, as the House Democrats’ sit-in on gun control continued into the wee hours of the morning, House Republicans brought the negotiated version of the Military Construction and Veterans Affairs funding bill up for a vote. That bill was missing a number of provisions that had been previously decided, including the medical marijuana issue as well as a ban on flying the Confederate battle flag in national cemeteries.

The House Appropriations Committee has not revealed who on the conference committee was responsible for removing either provision. But of the eight House members who served on the panel that negotiated the bill, five had voted against Blumenauer’s amendment, including Republicans Tom Cole of Oklahoma, Charles Dent of Pennsylvania, Jeff Fortenberry of Nebraska, Martha Roby of Alabama and David Valadao of California. During debate on the measure in May, Dent said medical experts and the Food and Drug Administration should weigh in on the matter. “I’m uncomfortable in trying to dictate policy on medical marijuana without input from the FDA and National Institutes of Health,” Dent said.

The letter to Speaker of the House Rep. Paul Ryan (R-WI), Minority Leader Rep. Nancy Pelosi (D-CA), Majority Leader Sen. Mitch McConnell (R-KY), and Minority Leader Sen. Harry Reid (D-NV) was signed by Daines, Merkley, Sens. Kirsten Gillibrand (D-NY), Barbara Boxer (D-CA), Cory Booker (D-NJ), Tammy Baldwin (D-WI), and Ron Wyden (D-OR) as well as Blumenauer and Reps. Jared Polis (D-CO), Dina Titus (D-NV), and Ruben Gallego (D-AZ).

Marijuana has been approved to treat some medical conditions in 26 states and the District of Columbia. Sixteen states also have passed laws that allow for medical use of compounds derived from cannabis plants. Marijuana is illegal under

federal law. Currently, veterans who live in states where medical marijuana is legal are not barred from using it, but their VA physicians cannot recommend it or fill out the paperwork needed for a patient to receive a medical marijuana card. A veteran who is found to use medical marijuana cannot lose his or her access to health care or disability compensation. VA doctors, however, reserve the right to decide whether to continue prescribing some medications if a veteran is found to use marijuana. The proposed legislation would not require the VA to cover the cost of medical marijuana for patients. [Source: Military Times | June 28, 2016 ++]

VA Benefits in Jail Update

Vets Over Paid \$104.1M in Last 7-yrs

The government improperly shelled out \$104.1 million in disability compensation and pension payments over seven years to veterans in prison, according to a new watchdog report. The Veterans Benefits Administration failed to slash benefits given to vets incarcerated in federal, state and local correctional facilities between 2008 and 2015 in thousands of cases, the Veterans Affairs Department inspector general found, primarily because the agency was more focused on eliminating the disability claims backlog, which had ballooned to an all-time high in 2013.

Federal law requires the department to reduce disability compensation and discontinue pension payments for veterans serving more than 60 days in federal, state, or local correctional institutions for a felony, and in some cases, a misdemeanor. For vets with a service-connected disability rating of 20 percent or more, the government reduces disability compensation to a 10 percent rate while they are in prison; for those with a 10 percent rating, the VBA cuts the benefit payment in half for the duration of incarceration. Because those adjustments do not require VA staff to attribute disability ratings to individual cases, they are not considered part of the department's disability claims backlog. So, the VBA didn't prioritize processing them, the watchdog discovered during its two-year audit, which meant millions of taxpayer dollars were wasted.

In one case, the watchdog found that VBA already had overpaid a veteran -- who started serving a 151-month sentence in federal prison in 2012 -- \$107,000 in vets' benefits as of Oct. 1, 2015. Overall, the inattention led to \$59.9 million in overpayments to vets in federal prison, and \$44.2 million in erroneous payments for those veterans housed in state and local correctional facilities. Because the workload was not a high priority for VA, data-sharing between VBA, the Justice Department's Bureau of Prisons, and the Social Security Administration fell by the wayside resulting in significant processing delays, the inspector general found.

For example, after a computer-matching agreement between VBA and BOP expired, "VBA did not receive data from BOP on federal incarcerations from July 2008 through May 2015 -- a total of 83 months," according to the watchdog report. In 3,800 cases involving vets in state and local correctional facilities (out of 21,600 cases that the IG looked at), VBA failed to thoroughly process adjustments to benefits after it had received data from SSA, leading to significant delays. "The longer the incarceration adjustment remains unaddressed, the larger the overpayment will be to the veteran. It took VBA an average of about 300 days to process state and local incarceration notifications received from March 2013 to August 2014," the watchdog said. The IG looked at data for federal incarcerations between 2008 and 2015, and SSA notifications between 2013 and 2014 related to state and local incarcerations.

If VBA doesn't get a handle on the problem, the improper payments could spike to \$307.9 million by fiscal 2020, the IG estimated. In its response, the VBA said its staff has to do "additional, time-consuming research to determine the date of conviction" for the veteran because currently BOP does not provide that information. "VBA will continue to work with FBOP and SSA to obtain the needed data and identify additional ways to streamline the process," said former VBA Acting Undersecretary for Benefits Danny Pummill in an April response to the IG report. The agency also noted that it continues to receive more "non-rating" claims, as it characterizes adjustments to the benefits of incarcerated vets, similar to the uptick in new disability compensation claims. "In fiscal year 2015, VBA completed a record 3.1 million non-rating claims, a 15 percent increase over fiscal year 2014," Pummill wrote.

VBA agreed with all the IG's recommendations, including making changes to the benefits of incarcerated vets a priority, and recouping any outstanding improper payments on the books. The agency also pledged to renew and improve its existing data-sharing agreements with BOP and SSA. VA spokesman James Hutton said VBA is also working to "support

future automation of the process to minimize benefit overpayments" and that "veterans who become indebted as a result of adjustments to their benefit awards have the right to request a waiver of the overpayment or to establish a repayment plan to help ease the financial burden upon release." [Source: GovExec.com | Kellie Lunney | June 29, 2016 ++]

VA Crises Hotline Update

Situation Worse than Previously Noted

Four months after Veterans Affairs officials announced leadership changes at the agency's suicide hotline — and praised employees following a scandal over dropped calls — the line's director has resigned and some staff members still answer as few as one call a day. Documents obtained by Military Times indicate that Veterans Crisis Line Director Gregory Hughes, hired in January to lead the troubled call center after reports that callers were placed on hold or sent to a voicemail system, resigned effective 17 JUN. Hughes' departure for family obligations comes as a government watchdog agency reported that the service needs improvement, including its text message response system, which appears to be in disarray.

According to a Government Accountability Office report released 27 JUN, 73 percent of calls made to the crisis line during a two-month period in 2015 were answered within the VA's standard of 30 seconds — a response time that ensures the call is answered in the VA's Canandaigua, New York, call center and not routed to a backup center. But emails from Hughes to his staff in early May 2016 indicate that matters only got worse — roughly half the calls received at the Crisis Line rolled over to the backup centers because they weren't answered within 30 seconds. By late May, those figures had improved, to between 35 percent and 40 percent, but still were above the GAO estimate of 27 percent, according to the emails. "If we continue to rollover calls because we have staff that are not making an honest effort, then we are failing at our mission," Hughes wrote.

As reported in Update 31 GAO also found that text messages to the center went unanswered. Four of 14 messages, or 28 percent, texted to the center in a test by GAO did not receive a response. Of the remaining 10 test text messages, eight received responses within two minutes and two within five minutes, according to the report. The agency also noted that VA does not routinely test its system and relies on its provider to track the information. The VA's goal is to answer 90 percent of crisis line calls at Canandaigua, because responders at the facility have access to veterans' medical records, addresses and contact information if the vets receive VA compensation or health care. The contracted backup call centers cannot access this information, and they do not always follow procedures established by the VA, according to GAO. A crisis line employee also told Military Times that VA is unable to follow up with a veteran after a call is routed to a backup center, nor can those backup centers pass information on the call back to VA. **"If a veteran commits suicide after being routed to a backup center, we have no way of knowing or tracking it,"** the employee said.

VA has implemented a number of improvements at the Crisis Line in the past year, to include upgrading communications equipment, hiring new employees, expanding office space and staggering shifts to ensure that employees always are available to take calls. But Hughes told staff that many calls were being routed to backup centers because some staff members routinely leave before their shifts end, they refuse to go to the office building they are assigned to, and some responders take as few as one to five calls a day. "We have some truly outstanding staff here who are very committed to their positions. These staff are routinely handling 15 to 20 calls daily and the quality of their calls [is] excellent," Hughes wrote. "We have other staff that are taking 1-5 calls a day and this cannot continue ... what we have seen is that there are staff who spend very little time on the phone or engaged in assigned productive activity."

The VA employee Military Times spoke with said some staff members did not take calls within an hour of their shift ending as they didn't want to extend their work day. In February, the VA inspector general found that at least 23 calls from veterans, troops or family members in fiscal 2014 went to a voicemail system and were never returned. The investigation also found that employees at the backup centers were not trained properly or lacked the experience to help veterans in a mental health crisis. VA officials said the department had taken a number of measures to improve the line before the inspector general's report was published. The Veterans Crisis Line, 1-800-273-8255, Press 1, has seen its volume swell from 164,000 calls in 2011 to 534,000 in 2015.

Deputy Secretary Sloan Gibson traveled to the main call center in New York in February to express support for Crisis Line employees, whom he called heroes. "The simple fact of the matter is the operation at the Veterans Crisis Line today does

not bear any resemblance to what happened then," he said. But both the GAO and internal memos indicate that problems persist. In an email that went to all VCL employees, Hughes chastised the under-performers. "Under our new leadership we are receiving significant additional resources of equipment, technology and personnel and we have an obligation to [our department] as well as veterans to make the most of these resources," he wrote.

The GAO recommended that VA monitor and test its text message system and develop performance standards for responding to texts. It also said VA should continue working with the Department of Health and Human Services to ensure that other suicide hotlines in the country respond appropriately to veterans. A VA spokeswoman said changes at the Crisis Line, including increased monitoring of employees and better technology allows VA to track incoming calls and counselors' work loads better than leadership could previously, including when the GAO examined the service. She added that that the line is adding several new employees this month, a move that will have more responders "taking calls than at any point in our history.

"Deputy Secretary Gibson has repeatedly said that we will make the Veterans Crisis Line a gold standard facility and that the [line] has traditionally been undermanaged," VA spokeswoman Victoria Dillon said. "Already we have made important organizational changes to better support our life-saving counselors." In their response to GAO, Veterans Health Administration officials said the VA is taking steps to resolve issues and is "making further improvements to the Veterans Crisis Line, ensuring veterans in crisis reach one of our trained responders in a timely manner." Hughes remains employed by VA. [Source: Military Times | Patricia Kime | June 29, 2016 ++]

VA Suicide Prevention Update

Hotline Tied Up by 4 Repeat Callers

Troubled vets who are contemplating suicide are having trouble getting through to a VA crisis hotline because of four repeat callers who flood the lines to torment operators, VA officials said. The four callers aren't phoning the Veterans Crisis Line for help, but rather to berate the hotline workers with "abusive, vulgar and profane" comments, Department of Veterans Affairs deputy secretary Sloan Gibson said. In May alone, the quartet of callers phoned the Veterans Crisis Line a staggering 5,619 times, more than 4% of the 128,346 total calls received, according to VA numbers cited by USA Today. One of the callers dialed the crisis center a whopping 2,158 times in May.

Suicide rates among recent veterans who served in Afghanistan and Iraq are 41% higher than the general U.S. population — but some of them are left hanging on the other line because of the constant harassment. Farmers, lumberjacks and fishermen top U.S. suicide rates. VA officials say they're working on weeding out the repeat callers so the crisis center can take calls from actual at-risk vets in need. "It's unacceptable that they would block that kind of access for other veterans and other active-duty service members that really need crisis help and so we're working through this clinically now to address that, cause it's just wrong," Gibson said. "My bottom line was deal with it and deal with it quickly because we're not going to continue to have that happen."

The Veterans Crisis Line — whose life-saving work was captured in an Oscar-winning HBO short documentary — was established in 2007 in Canandaigua, N.Y., and has come under fire in recent months for failing to staff properly for a massive influx in crisis calls. A Veterans Affairs Department Inspector found that more than a third of distressed vets who called the 24-hour suicide hotline were ignored and rerouted to a voicemail system. VA officials told USA Today they are expanding hotline staff and will be "restricting" the four callers but "only after a consultation with clinicians at their local VA Medical Centers to ensure that these four veterans can be cared for appropriately, while at the same time freeing up staff at the Veterans Crisis Line for those veterans, servicemembers and family members who need to speak with crisis line counselors timely and thoroughly." [Source: New York Daily News | Laura Bult | July 1, 2016 ++]

VA Cancer Treatment Update

Upcoming Cancer Elimination Role

The Department of Veterans Affairs could turn its entire medical system into a nationwide center for excellence for cancer treatment in the next few months. That's the upshot of VA's role within the White House's "moonshot" to eliminate

cancer, a \$1 billion attempt to bring about a decade's worth of medical advances in half that time. While other agencies will focus on research and clinical trials, VA doctors will be putting those advances to work as soon as this fall, in hopes of saving more veterans' lives. "We're essentially taking expertise that exists in our high-end centers and making sure that it is available in even our most rural centers," said Dr. David Shulkin, VA's undersecretary for health. "It's going to result in different treatment options and better decisions, and making sure every veteran is getting world-class cancer care."

VA officials will team with the National Cancer Institute, the Prostate Cancer Foundation and a host of federal agencies to support a series of new innovations through the system. But the partnership drawing the most attention is one with IBM's supercomputer Watson, whose genomics technology program will be made available to VA hospitals and doctors looking to pinpoint the best treatment options for veterans battling cancer. "What you'll begin to start seeing is at your VA hospitals, you'll now have access to the most advanced type of cancer diagnostics anywhere in the world," Shulkin said. "IBM isn't doing this with any other system on this scale."

Department officials hopes to help at least 10,000 veterans with the targeted cancer therapies in the next few years. For some with the illness, individualized treatments could be compiled and processed by the supercomputer within a day of the diagnosis. "And almost every month, there is new discovery in this area," Shulkin said. "So this is not only helping the patients we'll see this year, but setting up VA to be the kind of system we all hope it should be for years to come." Those types of offerings should be available to veterans starting this fall. Shulkin said he is excited by the opportunities, especially given the aging population of veterans in America and the growing number of cancer cases VA doctors see each year. "This is one of our critical areas of focus," he said. "This is taking what we know is the most advanced, very best way to practice, and really making sure we're getting that to as many veterans as possible as quickly as possible." More information on the presidential cancer initiative is available on the White House website <https://www.whitehouse.gov/the-press-office/2016/06/28/fact-sheet-cancer-moonshot-summit-vice-president-biden-announces-new>. [Source: Military Times

| Leo Shane | July 4, 2016 ++]

VA Prescription Policy Update

State Monitoring Database Use

The Veterans Affairs Department figures prominently in a new push by the Obama administration to curtail the nationwide opioid and heroin epidemic. President Obama called on Congress 6 JUL to spend \$1.1 billion to fund new efforts to stem prescription drug abuse and encourage patients to seek treatment, including a new policy at VA that will require doctors to check state prescription monitoring databases before prescribing a controlled substances to a patient. The policy, designed to keep patients from doctor shopping for painkillers, will require physicians to check the databases at least once a year and when a patient requires a refill.

According to the Centers for Disease Control and Prevention, more than 28,000 Americans died from opioid or heroin overdoses in 2014, and at least half the deaths involved prescription medication. The administration argues that new measures, to include expanding access to treatment and funding research, are needed to address the epidemic. "Every day that passes without congressional action to provide these additional resources is a missed opportunity to get treatment to those who want it, help prevent overdoses and support communities across the country impacted by this epidemic," White House officials said in a release.

A 2013 investigation by the Center for Investigative Reporting found that VA prescriptions for four opiates, including hydrocodone, oxycodone, methadone and morphine, increased 270 percent from 2001 to 2012. But after VA launched an opioid safety initiative in 2013, the number of prescriptions has dropped by more than 110,000. The limits placed on opioid prescriptions at VA, however, have been problematic for some veterans, according to veterans advocacy groups and lawmakers. They argue that while the limits have helped some addicted veterans get treatment, they have forced others to endure pain or turn to street drugs like heroin. The White House announcement also calls for the Defense Department to conclude an ongoing evaluation of the DoD's prescription drug monitoring program. A DoD report released in April noted that opioid abuse among active-duty personnel was 0.2 percent in 2015, down 29 percent from 2010. Opiate-positive drug tests among service members also declined by 42 percent from fiscal 2013 to fiscal 2014.

Some of the initiatives announced Wednesday by the White House are ongoing, to include the Drug Enforcement Administration's prescription drug take-back day in October, grants for states to expand tele medicine outreach and treatment in rural areas and Health and Human Services Department funded research on pain management, substance abuse and treatment. Other initiatives included in the White House announcement Wednesday include expanding the number of patients that a doctor can oversee for buprenorphine therapy from 100 to 275, and a requirement that the Indian Health Service check state prescription databases before prescribing or dispensing an opioid for more than seven days.[Source: Military Times | Patricia Kime | July 6, 2016 ++]

VA Security

\$11M Spent on Weapons, Riot Gear, etc Over 9 Years

The Department of Veteran Affairs bought more than \$11 million worth of weapons, ammo and other security equipment between 2005 and 2014, according to a report released last month by a non-profit organization that tracks spending across the federal government. The report, called *The Militarization of America* and published by OpenTheBooks, said the VA acquired a variety of pistols -- Berettas, Sig Sauers, Lugers -- and ammunition, as well as body armor, police batons, ballistic shields, riot shields and helmets, night gun sights, tactical equipment for crowd control and more.

The \$11.6 million in weapons and gear includes \$200,000 for night vision equipment, \$2.3 million on body armor, more than \$2 million on pistols and about \$3.6 million on ammunition, the report said. A chart included with the report also shows a variety of training weapons and a night gun scope. The department has 3,700 law enforcement officers guarding and securing VA medical centers. The VA didn't respond to Military.com's request for comment, though in a 17 FEB email to OpenTheBooks, the agency described its police officers as "the front line response forces for our facilities" and said its personnel "receive extensive training in active threat response. "While VA police work very closely with Federal, local and state law enforcement partners, VA police will be the first to have to deal with any active situation and are well trained accordingly," it stated.

The department is not the only federal agency that has been stockpiling weapons in recent years, presumably against mass shooters and other security threats. The report found that non-military federal agencies spent nearly \$1.5 billion on weapons and ammo from 2005 to 2014. The [report](#) states that the IRS spent \$10.7 million on guns, ammo and gear over the same period. The Animal and Plant Health Inspection Service spent \$4.7 million, the Social Security Administration \$417,000, and the Department of Education \$412,000. The Smithsonian Institution's arms purchases totaled just over \$309,000.

The arming of VA security personnel began in 1996 with a pilot program intended to extend firearms and arrest authority to the department's 2,393 officers, the report said. Two years later, only 262 department police officers had the authority to carry a weapon and make arrests. "However, by 2008, the VA officer corps grew to 3,175 and all were authorized to make arrests and carry firearms," OpenTheBooks' report found. Currently, it said, the VA has more than 3,700 personnel who may carry firearms and make arrests.

In a swipe at VA over its widely publicized problems with getting veterans in for appointments, the organization said it was "notable [that the arms and equipment] buildup occurred while the VA failed to provide critical care for thousands of veterans who would later on waiting lists." In its email to the group, the department said the gun purchases relate to a decision in 2008 to have VA police switch to a different firearm. It did not say what VA officers used before then. "This change has taken place over time in a phased approach. VA facilities began replacing the older pistol as funds became available and pistol service life limits are reached," the VA said. "Most of VA facilities have completed the transition to the new contracted firearm, with several still in that process." Night vision and other countermeasure equipment were acquired by field facilities to meet their local security and law enforcement needs, according to the department. The VA statement did not detail which facilities required the special gear. [Source: Military.com | Bryant Jordan | Jul 05, 2016 ++]

VA Accountability Update

H.R.5620 Makes it Easier to Fire/Demote

A new accountability bill aims to make it easier to fire and demote all Veterans Affairs employees, and would prevent department senior executives from receiving any bonuses over the next five years. The 2016 VA Accountability First and Appeals Modernization Act is the latest effort by lawmakers to change the disciplinary process for VA employees and top career officials, essentially by reducing the time allotted for it to play out. The measure also would give the secretary clear authority to rescind bonuses, retirement benefits and relocation expenses from employees under certain circumstances. Additionally, the legislation would prohibit all VA senior executives from receiving awards or bonuses from fiscal 2017 through 2021.

Under the bill (H.R. 5620), rank-and-file employees who have been fired because of performance or misconduct, and appeal that decision to the Merit Systems Protection Board, would not receive pay, bonuses, or certain other benefits while the appeal is pending. Senior executives would no longer be able to appeal removals or demotions to MSPB; instead they could appeal to an internal Senior Executive Disciplinary Appeals Board. But the secretary could reverse that board's decision. "The biggest obstacle standing in the way of VA reform is the department's pervasive lack of accountability among employees at all levels," said the bill's sponsor, House Veterans' Affairs Committee Chairman Jeff Miller (R-FL). "For too long, union bosses, administration officials and their enablers have used every trick in the book to help VA bureaucrats who can't or won't do their jobs remain firmly entrenched in the agency's bureaucracy."

Miller, one of the chief architects of the 2014 Veterans Access, Choice, and Accountability Act – the law which tried to make it easier to fire VA senior executives -- has introduced several measures over the last few years that incorporate many of the provisions in H.R. 5620. The Justice Department recently said it could not enforce a key accountability component of the 2014 law, prompting the VA to announce it would no longer use the Choice Act's expedited firing authority for senior executives. Miller's latest bill also attempts to strengthen whistleblower rights, and would withhold bonuses from managers who don't treat whistleblower complaints seriously, or who retaliate against such employees. H.R. 5620 also contains a section that aims to fix the lengthy and complicated disability claims process for veterans. The major employee accountability provisions in the bill would:

- Impose a shorter disciplinary process for rank-and-file employees who are fired or demoted. The entire process – from notification to the MSPB's decision on an appeal – would be limited to 77 days
- Give the VA secretary authority to strip pension benefits from VA senior executives who are convicted of a crime that influenced their job performance, and then fired. The bill also would prevent senior executives about to be fired because they were convicted of such a felony, but who instead retire, from receiving their full retirement benefits. The secretary would be allowed to take away the government contribution portion of the pension for the time period in which the employee was engaged in behavior warranting removal.
- Allow the VA secretary to recoup bonuses from VA employees when appropriate, with notification and an opportunity for appeal.
- Allow the VA secretary to recoup relocation expenses from VA employees who've engaged in misconduct, with notification and opportunity for appeal.
- Miller's bill contains provisions that are similar to the Senate's Veterans First Act, most notably the elimination of MSPB appeal rights for senior executives. But the House legislation contains measures that target the pay and benefits of problem rank-and-file employees, not just senior executives. The Veterans First Act, which has stalled in the upper chamber, also would reduce the amount of time an employee has to respond to proposed disciplinary actions. But earlier versions of that bill contained some stronger accountability measures for the rank-and-file that didn't make it into the final legislation. The Senate bill also includes more hiring and pay flexibility for the VA to recruit health-care professionals, measures that are not in the House legislation.

Jason Briefel, interim president of the Senior Executives Association, said he needed to look more closely at H.R. 5620 to see if some of the group's previous recommendations on issues affecting VA senior executives made it into the bill. "We're not just here to say 'no,'" Briefel said. "We are here to work with the Congress, and we do want to help find good policy for employees writ large," whether they are senior executives or not, Briefel added. Briefel said lawmakers need to ask themselves whether or not "a sticks-only approach" to personnel ultimately will result in the type of leadership that VA

needs to succeed. "Part of what we hope to continue doing is educating members of Congress about what the real facts are."

The American Federation of Government Employees, which represents a large portion of the VA workforce, said keeping the department accountable called for stronger, not weaker, due process rights for employees. "Real accountability at the VA comes when front-line employees are empowered to speak out about issues with veterans' health care and benefits," said AFGE National President J. David Cox Sr. "Chipping away at vital due process rights leaves these employees more exposed to retaliatory acts, cutting off a vital feedback channel for improving veterans' care." Cox added that "whistleblower protections can only do so much to right these wrongs." AFGE supports the Senate's Veterans First Act. [Source: GovExec.com | Kellie Lunney | July 6, 2016++]

National Park Passports Update

Lifetime Access Pass

A free, lifetime pass is available to U.S. citizens or permanent residents of the United States that have been medically determined to have a permanent disability (does not have to be a 100% disability). It provides access to more than 2,000 recreation sites managed by five Federal agencies. At many sites the Access Pass provides the pass owner a discount on Expanded Amenity Fees (such as camping, swimming, boat launching, and guided tours). The Access Pass admits pass owner/s and passengers in a non-commercial vehicle at per-vehicle fee areas and pass owner + 3 adults, not to exceed 4 adults, where per-person fees are charged. (Children under 16 are always admitted free.) Photo identification will be requested to verify pass ownership. One pass covers the vehicle at sites that charge "per vehicle". At "per person" sites, the applicable fee will be charged for each additional person

Holders of the lifetime Golden Age Passports need not obtain the new access pass until theirs physically wear out or a replacement is needed. You can obtain at <http://store.usgs.gov/pass/PassIssuanceList.pdf> an Access Pass in person, with proper documentation, from a participating Federal recreation site or office. Issue locations are identified at. Access Passes may also be obtained via mail order from USGS. Mail-order applicants for the Access Pass must submit a completed application (http://store.usgs.gov/pass/access_pass_application.pdf), proof of residency and documentation of permanent disability (does not have to be a 100% disability), and pay the document processing fee of \$10 to obtain a pass through the mail. Once the application package is received, the documentation will be verified and a pass, with the pass owner's name pre-printed on it, will be issued to the applicant. Access Pass applications are usually processed and shipped within 3-5 business days from the day they arrive at USGS. Transit time varies, and is dependent upon the service selected:

- USPS - typically 5-10 business days
- FedEx Ground - typically 3-5 business days
- FedEx 2nd day - typically 2 business days
- FedEx Overnight - typically 1 business day

Access Passes may be used for free entrance to areas under the management of The Forest Service, the National Park Service, Fish and Wildlife Service, Bureau of Land Management, USACE, and Bureau of Reclamation honor the Access Pass at sites where Entrance or Standard Amenity Fees (Day use fees) are charged. In addition, the Tennessee Valley Authority may honor the Access Pass for entrance or camping discounts.

- Bureau of Land Management <http://www.blm.gov>
- Bureau of Reclamation <http://www.usbr.gov>
- Fish and Wildlife Service <http://www.fws.gov>
- USDA Forest Service <http://www.fs.fed.us>
- National Park Service <http://www.nps.gov>
- US Corps of Engineers <http://www.usace.army.mil>

For more information refer to <http://store.usgs.gov/pass/access.html> [Source: NCOAdvocate | July 1, 2016 ++]

Vet Preference Update

NDAAs Amendment | 1st Job Only

The federal government's practices for hiring veterans have emerged as a sticking point between the House and the Senate. An amendment in the House-passed [fiscal 2017 financial services spending bill](#) would prohibit funds from being used to change the current policy on veterans' preference in federal hiring. That measure is a direct response to a provision in the [Senate's fiscal 2017 Defense authorization legislation](#) that would limit the application of veterans' preference to a vet's first job in federal service. The Defense policy bill is now in conference committee; the House version of it does not contain the language on veterans' preference. Rep. Ruben Gallego (D-AZ), a veteran of the Iraq war, introduced the financial services amendment, saying that it wasn't the time to "dilute" a system that has successfully hired and promoted more vets in the federal government. "While this change might seem innocuous, it could have serious negative implications for the men and women who served our nation in uniform," Gallego said last week during remarks on the House floor.

The Senate provision, which is new this year, would not allow veterans' preference – a confusing and often controversial factor in federal hiring – to be an advantage in any subsequent federal jobs for which an eligible employee applies. In other words, vets would receive the additional points that veterans' preference confers during the application process for their first jobs in federal government, but not for any future positions within the competitive service. The measure also would affect certain close relatives of veterans, including spouses and parents, who are eligible for veteran's preference under specific circumstances when applying for federal jobs. Gallego said that the provision was never the subject of a public hearing or debate. "I'm willing to bet the vast majority of our colleagues in the Senate had no idea this language was even in the bill," he said.

Many hiring managers, human resources specialists and veterans do not understand [how vets' preference works in federal hiring](#). It's played a role in complaints filed over whether the benefit -- designed to help former service members find jobs and increase diversity in government -- was applied fairly. Veterans and non-veterans have complained about being shut out of government service because of it. The old "rule of three" in competitive service hiring required that eligible vets receive an extra 5 to 10 points during the application process. But since 2010, agencies have used the "category rating" system, which splits candidates into different "qualified" categories, resulting in a list of the most qualified applicants that HR specialists send to hiring managers. So, if a veteran and a non-veteran are equally qualified for the job, the veteran will prevail because of vets' preference. But not all applicants have the necessary basic qualifications for a job, and sometimes you might have two qualified vets competing against one another for a job that only one of them will get.

Jeff Neal, former chief human capital officer at the Homeland Security Department, said he doesn't think the change to veterans' preference will remain in the Defense policy bill -- and if it does, it could have unintended consequences. "If you've got a job where five veterans apply, and two of them work for the federal government already, and you knock them off of the list because of that, then you still have three veterans," said Neal, who is senior vice president at ICF International and writes the blog ChiefHRP.com. "Some people might look at it and say, well, more veterans will get jobs, not less." Neal also said he worried about how the change could affect disabled vets, many of whom currently work in the federal government. "I would hope that before you start doing things that would affect those folks, that you would examine some data, and be very careful about doing things that might actually harm the employment opportunities for disabled veterans." Disabled veterans receive the most preference in federal hiring.

Veterans [made up about 31 percent of the federal workforce in fiscal 2014](#), according to the Office of Personnel Management. [Source: GovExec.com | Kellie Lunney | July 11, 2016 ++]

HIV/AIDS Update

Vet Denied Aquatic Therapy Sues

An Iraq War veteran claims in a federal lawsuit that she was unlawfully denied aquatic therapy at an orthopedic hospital in Pennsylvania because she has the virus that causes AIDS. The lawsuit against OSS Health in York Township seeks a declaratory judgment stating that the alleged denial constitutes discrimination under the Americans with Disabilities Act.

The plaintiff is a 40-year-old York County resident identified only by a pseudonym. She says that a physical therapist recommended during a June 2015 visit that she receive aquatic therapy. She says when her medical records showed she was HIV-positive, she was turned away. Attorneys for OSS and two co-defendants, Drayer Physical Therapy Institute and the therapist, deny any wrongdoing. The lawsuit was filed in mid-JUN. [Source: The Associated Press | June 27, 2016 ++]

VA Mustard Agent Care Update

S.3023 / VA Opposes Widening Care

The Department of Veterans Affairs (VA) pushed back 29 JUN against a proposal aimed at making it easier for World War II veterans intentionally exposed to mustard gas in U.S. military experiments to get medical benefits. The VA argues that the plan could unintentionally expand coverage to all WWII veterans. "We fully support delivering benefits to veterans and survivors as quickly as possible," David McLenachen, deputy undersecretary for disability assistance, told the Senate Veterans' Affairs Committee. But he said the bill at issue "would create presumption of full-bodied mustard gas exposure and resulting service connection for every World War II veteran who files a claim for related disability benefits."

Sen. Claire McCaskill (D-Mo.) issued a report earlier this year saying that veterans exposed to mustard gas by the U.S. have been unfairly denied benefits and introduced legislation to combat the issue. Her bill would mandate a review of previously denied claims, lower the bar to get the benefits, revamp the VA's application and adjudication process and mandate an investigation by the VA and Pentagon to determine what went wrong with the process. Specifically, the bill would mandate that during the review of previous claims, the VA must presume a veteran was exposed to mustard gas until proved otherwise.

During World War II, the military exposed about 60,000 service members to mustard gas and another chemical agent called lewisite in an effort to test protective equipment. The classified tests were unsealed in 1975. Still, veterans who were part of the tests were barred from seeking treatment because of an oath of secrecy. In 1991, the Veterans Affairs secretary announced new guidelines for compensating veterans who were exposed to mustard gas, effectively lifting the oath. **Just 40 veterans are receiving benefits for mustard gas exposure**, and up to 90 percent of the disability claims filed from 2005 to 2015 with the Department of Veterans Affairs have been denied, according to McCaskill's report. "The VA established a burden of proof that is insurmountable to many impacted veterans," she said Wednesday.

McCaskill pushed back against the notion that her bill (S. 3023: The Arla Harrell Act) would open the VA up to more claims, saying the burden of proof would only be flipped for those who have already filed a claim. "There's less than 400 of these folks still alive," she said. "So for 400 individuals who have already applied, it would flip the burden of proof, but it would not open up claims for anyone who has not previously applied. So it's a very limited application." While the VA opposes McCaskill's bill, McLenachen said the claims are a "high priority" for the VA and pledged to continue working on them. "We will continue to fully and sympathetically develop and adjudicate every mustard gas claim that we receive," he said. [Source: The Hill | Rebecca Kheel | June 29, 2016 ++]

PTSD Update

Illinois Judge Rules Eligible for Marijuana Treatment

Illinois must add post-traumatic stress disorder to the list of diseases eligible for medical marijuana treatment, a Cook County judge ordered 28 JUN in a sternly worded ruling that also said the state's public health director engaged in a "private investigation" that was "constitutionally inappropriate." In a lawsuit filed by an Iraq war veteran, Judge Neil Cohen ordered Illinois Department of Public Health Director Nirav Shah to add PTSD within 30 days. It's the first decision among eight lawsuits filed by patients disappointed with across-the-board rejections by Gov. Bruce Rauner's administration of recommendations from an advisory board on medical marijuana. The health department is reviewing the judge's order, department spokeswoman Melaney Arnold said.

Illinois law allows people to petition the state to add health conditions to the eligible list, but Rauner's administration has rejected all new conditions despite the advice of an expert panel that reviewed available medical evidence. In the case of PTSD, the advisory board voted unanimously to add it, but Shah, a Rauner appointee, conducted his own investigation

and rejected PTSD applying a standard of medical evidence that "appears nowhere in the Act or the Department's rules," the judge wrote. Shah not only deprived the plaintiff of his right to due process but also "was contrary to the plain language of the Department's rules," Cohen wrote. Veteran Daniel Paul Jabs, who filed the lawsuit, "feels this decision gives him and other military veterans suffering from PTSD the respect they deserve from the state and the governor's office," attorney Michael Goldberg said Tuesday.

The ruling may help veterans with PTSD feel more comfortable trying marijuana to ease their symptoms and reduce their reliance on prescription drugs, said Michael Krawitz of Veterans for Medical Cannabis Access, a national nonprofit based in Virginia. Seven other plaintiffs have filed similar lawsuits seeking to add the following conditions to the Illinois program: chronic post-operative pain, migraines, irritable bowel syndrome, polycystic kidney disease, osteoarthritis, intractable pain and autism. Cohen is the judge in the chronic pain and osteoarthritis cases, while the others are before other judges.

Fifteen states and Washington, D.C., have medical marijuana laws that either specifically include PTSD or give doctors broad enough discretion to recommend marijuana for the condition, according to the Marijuana Policy Project, which seeks to end criminalization of the drug. Earlier this month, Ohio became the 25th state to legalize a comprehensive medical marijuana program, and it lists PTSD as a qualifying condition. Illinois' medical marijuana pilot program got its start under former Gov. Pat Quinn, a Democrat, and continued under Rauner, a Republican who for more than a year resisted expanding the program beyond the original 39 conditions and diseases listed in the law. Rauner now is considering signing a bill to extend the pilot program by 2½ years and adding PTSD and terminal illness to the list of qualifying conditions. [Source: The Associated Press | Carla K. Johnson | June 28, 2016 ++]